

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:15-cv-00994
	)	
MARATHON PETROLEUM CORPORATION,	)	
	)	
and	)	
	)	
MARATHON PETROLEUM COMPANY LP,	)	
	)	
Defendants.	)	

**COMPLAINT (CORRECTED)**

Plaintiff United States of America, by its undersigned attorneys, by authority of the Attorney General of the United States, and at the request of the Administrator of the United States Environmental Protection Agency (“EPA”) alleges as follows:

**STATEMENT OF THE CASE**

1. This is an action for civil penalties and injunctive relief brought against Marathon Petroleum Corporation (“MPC”) and Marathon Petroleum Company LP (“MPCLP”), collectively the “Defendants,” pursuant to the Clean Air Act (“CAA” or “Act”), Title II, Section 211(d), as

amended, 42 U.S.C. § 7545(d), for violations of Sections 211(a), (f), and (k) of the CAA, 42 U.S.C. §§ 7545(a), (f), and (k), and the regulations promulgated under 211(b), (c), (h), and (k) of the CAA, 42 U.S.C. §§ 7545(b), (c), (h), and (k), published at 40 C.F.R. Parts 79 and 80 (the “fuels regulations”).

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action and the parties pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Sections 205(b) and 211(d) of the Act, 42 U.S.C. §§ 7524(b) and 7545(d).

3. Pursuant to Section 205(b) and 211(d) of the Act, 42 U.S.C. §§ 7524(b) and 7545(d), the United States district courts are authorized to assess civil penalties for violations of Section 211 of the Act, 42 U.S.C. § 7545, and the regulations promulgated under the Act.

4. Pursuant to Section 211(d)(2) of the Act, 42 U.S.C. § 7545(d)(2), the United States district courts are authorized to restrain violations of Section 211 of the Act, 42 U.S.C. § 7545(d), and the regulations promulgated under the Act.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), 1395(a), and Section 205(b) of the Act, 42 U.S.C. § 7524(b).

### **AUTHORITY**

6. The United States Department of Justice has authority to bring this action on behalf of the Administrator of the EPA pursuant to 28 U.S.C. §§ 516 and 519, and Section 305(a) of the Act, 42 U.S.C. § 7605(a).

### **THE DEFENDANT**

7. At all relevant times, MPC and MPCLP were corporations established under the laws of Delaware, with their principal place of business in Findlay, Ohio.

8. At all relevant times, MPCLP was a wholly owned subsidiary of MPC.

9. At all relevant times, MPC owned and /or operated refineries in Catlettsburg, Kentucky (the “Catlettsburg refinery”), Texas City, Texas (the “Texas City refinery”), Garyville, Louisiana (the “Garyville refinery”), and Detroit, Michigan (the “Detroit refinery”), and owned and operated terminals in Catlettsburg, Kentucky (the “Viney Branch Terminal”), Lexington, Kentucky (the “Lexington Terminal”), Charlotte, North Carolina (the “Charlotte Terminal”), Jacksonville, Florida (the “Jacksonville Terminal”), Louisville, Kentucky (the “Louisville-Kramer Lane Terminal”), Green Bay, Wisconsin (the “Green Bay Terminal”), and Tampa, Florida (the “Tampa Terminal”).

10. At all relevant times, MPCLP owned and /or operated the Catlettsburg refinery, Texas City refinery, Garyville refinery, the Detroit refinery, the Viney Branch Terminal, the Jacksonville Terminal, the Louisville-Kramer Lane Terminal, the Green Bay Terminal, and the Tampa Terminal.

### **STATUTORY AND REGULATORY PROVISIONS**

11. Section 211 of the Act, 42 U.S.C. § 7545, and the regulations promulgated thereunder, set forth a number of fuel quality and emissions standards, and require refiners to sample and test the fuel that they produce, to keep production records, and to submit reports to the EPA to demonstrate compliance with the applicable requirements.

12. Section 211(d)(1) of the Act, 42 U.S.C. § 7545(d)(1), provides, in part, that any person who violates Sections 211(a), (f), and (k) of the Act, 42 U.S.C. §§ 7545 (a), (f), and (k), or the regulations proscribed under Sections 211 (b), (c), (h), and (k) of the Act, 42 U.S.C. §§ 7545 (b), (c), (h), and (k), shall be liable for a civil penalty of up to \$25,000 per day for each day of violation, plus the amount of economic benefit or savings resulting from the violation. Pursuant to 40 C.F.R.

§ 19.4, the amounts of civil penalties for these violations increased to \$32,500 per day, plus the amount of economic benefit or savings resulting from the violation for violations that occurred after March 15, 2004 through January 12, 2009, and \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violation for violations that occurred after January 12, 2009.

### **Gasoline Regulations**

13. EPA promulgated regulations pursuant to Section 211(k) of the Act, 42 U.S.C. § 7545(k), regarding the manufacture and use of reformulated gasoline (“RFG”) in gasoline-fueled vehicles in specified nonattainment areas. This section of the Act also required the EPA to promulgate regulations that prohibit refiners from selling conventional gasoline (“CG”) that results in average per gallon emissions of certain pollutants that are in excess of the emissions attributable to the gasoline that the refiner introduced into commerce in the 1990 calendar year.

14. The RFG regulations require use of RFG in certain ozone nonattainment areas and impose a number of sampling, testing, recordkeeping, and reporting requirements on refiners. See 40 C.F.R. §§ 80.65(e) and 80.74. Refiners are required to determine the properties of each batch of RFG and reformulated gasoline blendstock for oxygenate blending (“RBOB”) prior to the RFG or RBOB leaving the refinery facility. See 40 C.F.R. §§ 80.65(e).

15. 40 C.F.R. § 80.41 describes the standards for emissions of volatile organic compounds (“VOCs”) for RFG. 40 C.F.R. § 80.65(c) gives refiners and importers the choice to comply with the standards on a per-gallon basis or on an average compliance basis over the applicable averaging period.

16. Section 211(h) of the Act, 42 U.S.C. § 7545(h), requires EPA to promulgate regulations prohibiting the sale of gasoline that exceeds certain volatility limits (the Reid Vapor Pressure

requirements or “RVP”). The EPA promulgated the regulations required under this section of the Act at 40 C.F.R. §§ 80.27 and 80.28.

17. 40 C.F.R. § 80.27(a)(2) states that during the 1992 and later regulatory control periods no person, including any refiner, shall sell, offer for sale, dispense, supply, offer for supply, transport or introduce into commerce gasoline whose RVP exceeds the applicable standards set forth in 40 C.F.R. § 80.27(a)(2)(i) and (ii). The term “regulatory control period” as used in this section of the regulations, is defined as the period from May 1 through September 15 of any calendar year.

#### **Gasoline Sulfur Standards and Regulations**

18. Pursuant to Section 211(c)(1) of the Act, 42 U.S.C. § 7545(c)(1), the EPA promulgated regulations concerning sulfur in gasoline at 40 C.F.R. Part 80, Subpart H. These regulations require refiners to limit the sulfur content of gasoline and impose a number of sampling, testing, record keeping, reporting, and quality assurance requirements relating to the sulfur content of gasoline.

19. 40 C.F.R. § 80.195 sets forth limits on the sulfur content in gasoline. The sulfur standards under 40 C.F.R. § 80.195 for the applicable averaging periods require refiners after January 1, 2006, to meet an annual refinery average of 30 ppm after application of valid credits, and require refiners to meet a per gallon sulfur cap of 80 ppm. See 40 C.F.R. §§ 80.195(a), 80.310, and 80.315.

#### **Substantially Similar Requirements**

20. Section 211(f) of the Act, 42 U.S.C. § 7545(f), provides that it is unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under Section 206 of the Act, 42 U.S.C. § 7525.

21. EPA promulgated an interpretive rule defining the term “substantially similar” in 1991. See 56 Fed. Reg. 5352. The interpretive rule provides, in part, that in order to meet the “substantially similar” requirements of the Act, “the fuel must possess, at the time of manufacture, all of the physical and chemical characteristics of an unleaded gasoline as specified in American Society for Testing and Materials (ASTM) Standard D 4814-88...” 56 Fed. Reg. 5356.

#### **Fuel Registration Requirements**

22. Sections 211(a) and (b) of the Act, 42 U.S.C. §§ 7545(a) and (b), and the regulations promulgated thereunder at 40 C.F.R. Part 79, establish a system for the registration of fuels. Section 211(a) of the Act, 42 U.S.C. § 7545(a), and 40 C.F.R. § 79.4, prohibit fuel manufacturers or processors of designated fuels from selling, offering for sale, or introducing into commerce such fuels, unless they have been registered in accordance with Section 211(b) of the Act, 42 U.S.C. § 7545(b). Motor vehicle gasoline is a designated fuel under 40 C.F.R. § 79.32.

#### **Sampling and Testing Requirements**

23. The fuels regulations require that any refiner who uses previously certified conventional gasoline to produce conventional gasoline at a refinery, must exclude the previously certified gasoline for purposes of demonstrating compliance with the conventional gasoline standards set forth at 40 C.F.R. § 80.101(b). See 40 C.F.R. § 80.101(g)(9)(i). To accomplish this exclusion, the regulations at 40 C.F.R. § 80.101(g)(9)(i) state the refiner must determine the volume and properties of the previously certified gasoline used at the refinery, and the volume and properties of the gasoline produced at the refinery, and use the compliance calculation procedures in §§ 80.101(g)(9)(iii) and (g)(9)(iv).

24. 40 C.F.R. § 80.101(i)(1) requires refiners to collect and analyze a representative sample of each batch of conventional gasoline that they produce for the purpose of determining compliance with the applicable emissions standards by using the test methods set forth in 40 C.F.R. § 80.46.

25. The fuels regulations at 40 C.F.R. § 80.8 set forth the procedures that must be used when collecting samples of gasoline for compliance testing. Manual sampling of tanks and pipelines must be performed in accordance with ASTM method D 4057-95 (2000). Automatic sampling of petroleum products in pipelines must be performed in accordance with ASTM Method D 4177-95 (2000). Both sampling methods require the sample container to be rinsed before sample collection.

26. 40 C.F.R. § 80.46 identify the procedures that must be used when measuring the following fuel parameters: distillation, Reid vapor pressure, sulfur, olefins, benzene, aromatic, E 200 and E 300. See 40 C.F.R. §§ 80.101(i) and 80.45. Specifically, 80.46(c) provides that RVP “must be determined using ASTM standard test method ASTM D5191. . .”

### **Reporting Requirements**

27. The regulations promulgated under Section 211(k) of the Act, 42 U.S.C. § 7545(k) are found at 40 C.F.R. Part 80. These regulations require refiners to comply with a number of reporting requirements. See, e.g., 40 C.F.R. §§ 80.75 and 80.105.

28. 40 C.F.R. § 80.75 requires refiners to submit quarterly reports to the EPA with information regarding the RFG and RBOB produced by them during the quarter. See 40 C.F.R. § 80.75. The reports are required to contain information about each batch of gasoline produced by them, including batch number, date of production, batch volume, grade of the gasoline produced and the properties of the gasoline determined in accordance with §§ 80.65 and 80.66. See 40 C.F.R. § 80.75(a)(2). The fuels regulations require refiners to submit quarterly reports to the EPA with

information regarding the RFG and RBOB they produced during that quarter. See 40 C.F.R. § 80.75.

29. 40 C.F.R. § 80.105(a) requires each refiner to file an annual report that is designed, in part, to demonstrate compliance with the applicable fuels emissions standards for conventional gasoline, including exhaust toxics and NOx emissions standards. These annual reports are required to contain, among other things, the results of tests performed in accordance with 40 C.F.R. § 80.101(i).

### **Recordkeeping Requirements**

30. 40 C.F.R. § 80.74 requires refiners to maintain records including certain information regarding sampling and testing product for each batch of RFG and RBOB. These records include the location, date, time, and storage tank or truck identification for each sample collected; the identification of the person who collected the sample and the person who performed the testing; the test results; and results of the tests to determine RFG properties and characteristics specified in § 80.65.

31. 40 C.F.R. § 80.104 requires refiners to maintain records for each batch of conventional gasoline, each batch of blendstock, test results, volume of the batch, batch number, etc. See 40 C.F.R. § 80.104.

32. 40 C.F.R. § 80.365 requires regulated parties to maintain records including certain information regarding sampling and testing of sulfur content. These records include the location, date, time, and storage tank or truck identification for each sample collected; the identification of the person who collected the sample and the person who performed the testing; and the test results.



### **GENERAL ALLEGATIONS**

33. At all relevant times, each Defendant was a corporation and therefore a “person” within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

34. At all relevant times, each Defendant was a “refiner” within the meaning of 40 C.F.R. § 80.2(i), which defines a “refiner” as any person who owns, leases, operates, controls, or supervises a refinery. 40 C.F.R. § 80.2(h) defines a refinery to mean any facility, including but not limited to, a tanker truck or vessel, where gasoline is produced, including any facility at which blendstock is added to gasoline.

35. At all relevant times, each Defendant was a fuel manufacturer within the meaning of 40 C.F.R. § 79.2(d), which defines a “fuel manufacturer” as any person who, for sale or introduction into commerce, produces, manufactures, or imports a fuel or causes or directs the alteration of the chemical composition of a bulk fuel, or the mixture of chemical compounds in a bulk fuel, by adding to it an additive. 40 C.F.R. § 79.2 (c) defines a “fuel” as any material which is capable of releasing energy or power by combustion or other chemical or physical reaction. 40 C.F.R. § 79.2(e) defines an “additive” as any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to a fuel named in the designation (including any added to a motor vehicle’s fuel system) and that is not intentionally removed prior to sale or use.

36. At all relevant times, each Defendant produced CG or RFG or RBOB.

### **FIRST CLAIM FOR RELIEF**

(Violation of VOC Performance Standard – Texas City Refinery, 2007)

37. Paragraphs 1 through 36 are re-alleged and incorporated by reference.

38. Defendants failed to meet the applicable Phase II complex model average VOC emissions performance reduction standard for 356 million gallons of RFG it produced during the 2007

reporting period at its Texas City Refinery as required by 40 C.F.R. §§ 80.41 and 80.65(c) of the RFG regulations.

39. Pursuant to Sections 211(d)(1) and (2) of the Act, 42 U.S.C. § 7545(d)(1) and (2), and 40 C.F.R. § 19.4, the violations set forth above subject each Defendant to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

### **SECOND CLAIM FOR RELIEF**

(Violations of Applicable Per-Gallon Sulfur Standard – Texas City Refinery, 2009)

40. Paragraphs 1 through 39 are re-alleged and incorporated by reference.

41. Defendants failed to meet the 80 ppm per-gallon sulfur standard for approximately 40,000,000 gallons (14 batches) of CG produced at the Texas City refinery during the period between July and September 2009 as required by 40 C.F.R. § 80.195(a).

42. Pursuant to Sections 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject each Defendant to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

### **THIRD CLAIM FOR RELIEF**

(Violations of the Substantially Similar Requirements - Viney Branch Terminal, 2009 - 2010)

43. Paragraphs 1 through 42 are re-alleged and incorporated by reference.

44. From approximately June 2009 to August 2010, during three separate incidents at the Viney Branch Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40

C.F.R. § 79.4 in accordance with Section 211(b) of the Act, was not substantially similar to any fuel or fuel additive utilized in the certification of vehicles, and was not covered by any waiver.

45. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009 and \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

#### **FOURTH CLAIM FOR RELIEF**

(Failure to Exclude Previously Certified Gasoline from Compliance Calculations - Garyville Refinery, 2007)

46. Paragraphs 1 through 45 are re-alleged and incorporated by reference.

47. Defendants produced conventional gasoline Batch 172 at its Garyville Refinery in 2007. The methodology Defendants used to determine the composition of Batch 172 failed to take into consideration the tank heel thereby failing to exclude previously certified gasoline from Defendants' compliance determination.

48. Defendants violated 40 C.F.R. § 80.101(g)(9)(i) by failing to properly exclude previously certified gasoline from its compliance calculations for Batch 172.

49. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

#### **FIFTH CLAIM FOR RELIEF**

(Improper Sampling Methodology - Detroit and the Texas City Refineries, 2008 - 2009)

50. Paragraphs 1 through 49 are re-alleged and incorporated by reference.

51. On at least one or more occasions in 2008-2009, Defendants violated 40 C.F.R. § 80.8 by failing to rinse sample containers prior to sample collection at the Detroit and the Texas City refineries.

52. Pursuant to Sections 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009 and \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violation, for violations that occurred after January 12, 2009.

#### **SIXTH CLAIM FOR RELIEF**

(Failure to Follow Approved Testing Methods - Detroit and the Texas City Refineries, 2008 - 2009)

53. Paragraphs 1 through 52 are re-alleged and incorporated by reference.

54. During 2008-2009, at both the Detroit and Texas City refineries, Defendants' laboratory technicians did not run the standards the required numbers of times, did not adequately clean test bottles, and did not correctly record sampling entries.

55. Defendants violated 40 C.F.R. § 80.46 by failing to follow the specified testing methods for determination of RFG fuel parameters at their Detroit and the Texas City refineries.

56. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009 and \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violation, for violations that occurred after January 12, 2009.

**SEVENTH CLAIM FOR RELIEF**

(Incorrect Reporting: Batch 148 - Texas City Refinery, 2006)

57. Paragraphs 1 through 56 are re-alleged and incorporated by reference.

58. In June 2006 Defendants produced a batch of RBOB, Batch 148, at the Texas City refinery. A report Defendants submitted to the EPA for Batch 148 showed a different sulfur value than the instrument printout for Batch 148 maintained in Defendants' batch records.

59. Defendants violated 40 C.F.R. §§ 80.74 and 80.365 by failing to maintain records of the test results of the sulfur content of Batch 148 produced at its Texas City refinery in 2006.

60. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**EIGHTH CLAIM FOR RELIEF**

(Incorrect Reporting: Batch 027 - Texas City Refinery, 2006)

61. Paragraphs 1 through 60 are re-alleged and incorporated by reference.

62. In November 2006, Defendants produced a batch of conventional gasoline, Batch 027, at its Texas City Refinery. When the information Defendants reported to the EPA was compared to information maintained in Defendants' records, there was a discrepancy of 342 thousand gallons in the reported volume of Batch 027.

63. Defendants violated 40 C.F.R. § 80.105 by failing to submit reports to EPA containing the correct volume for Batch 027 of conventional gasoline produced at its Texas City refinery in 2006.

64. Pursuant to Section 211 of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day,

plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**NINTH CLAIM FOR RELIEF**

(Failure to Maintain Records of Sulfur Content of Batches 017, 040, 052, 075, 088, and 114 - Texas City Refinery, 2006)

65. Paragraphs 1 through 64 are re-alleged and incorporated by reference.

66. Defendants violated 40 C.F.R. §§ 80.74 and 80.365 by failing to maintain records of the test results of the sulfur content of Batches 017, 040, 052, 075, 088, and 114 of RBOB produced at its Texas City refinery in 2006.

67. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**TENTH CLAIM FOR RELIEF**

(Failure to Maintain Records of Sulfur Content of Batches 027, and 064 - Texas City Refinery, 2006)

68. Paragraphs 1 through 67 are re-alleged and incorporated by reference.

69. Defendants violated 40 C.F.R. §§ 80.104 and 80.365 by failing to maintain records of the test results of the sulfur content of Batches 027 and 064 of conventional gasoline produced at its Texas City refinery in 2006.

70. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**ELEVENTH CLAIM FOR RELIEF**

(Failure to Maintain Records of RVP for Batches 088, 137, 148, and 159 of RBOB - Texas City Refinery, 2006)

71. Paragraphs 1 through 70 are re-alleged and incorporated by reference.

72. Defendants violated 40 C.F.R. § 80.74 by failing to maintain records of the test results of the RVP of Batches 088, 137, 148 and 159 of RBOB produced at its Texas City refinery in 2006.

73. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**TWELFTH CLAIM FOR RELIEF**

(Failure to Maintain Records of RVP of Batch 064 of Conventional Gasoline - Texas City Refinery, 2006)

74. Paragraphs 1 through 73 are re-alleged and incorporated by reference.

75. Defendants violated 40 C.F.R. § 80.104 by failing to maintain records of the test results for the RVP of Batch 064 of conventional gasoline produced at its Texas City refinery in 2006.

76. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$32,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after March 15, 2004 through January 12, 2009.

**THIRTEENTH CLAIM FOR RELIEF**

(Violation of Substantially Similar Requirements - Louisville-Kramer Lane Terminal, 2012)

77. Paragraphs 1-76 are re-alleged and incorporated by reference.

78. From approximately March 4, 2012 to March 8, 2012, during an incident at the Louisville-Kramer Lane Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C.

§§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R § 79.4, in accordance with Section 211(b) of the Act the fuel was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and it was not covered by any waiver.

79. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

#### **FOURTEENTH CLAIM FOR RELIEF**

(Violation of Substantially Similar Requirements - Green Bay Terminal, 2013)

80. Paragraphs 1-79 are re-alleged and incorporated by reference.

81. On June 27, 2013, during an incident at the Green Bay Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R § 79.4 in accordance with Section 211(b) of the Act, it was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and it was not covered by any waiver.

82. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.



**FIFTEENTH CLAIM FOR RELIEF**

**(Violations of Reid Vapor Pressure Standards - Tampa Terminal, 2013)**

83. Paragraphs 1-82 are re-alleged and incorporated by reference.

84. On August 26, 2013, during an incident at its Tampa Terminal, the Defendants violated 40 C.F.R. § 80.27(a)(2)(i) by selling, offering for sale, dispensing, supplying, offering for supply, transporting or introducing into commerce gasoline whose RVP exceeded the 7.8 RVP standard during the regulatory control period to an area that is subject to that standard.

85. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

**SIXTEENTH CLAIM FOR RELIEF**

**(Violation of Substantially Similar Requirements - Jacksonville Terminal, 2013)**

86. Paragraphs 1-85 are re-alleged and incorporated by reference.

87. From September 26-30, 2013, during an incident at its Jacksonville Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R. § 79.4 in accordance with Section 211(b) of the Act, was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and was not covered by any waiver.

88. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to

\$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

**SEVENTEENTH CLAIM FOR RELIEF**

(Violation of Substantially Similar Requirements – Lexington Terminal, 2014)

89. Paragraphs 1-88 are re-alleged and incorporated by reference.

90. On and shortly after July 25, 2014 during an incident at its Lexington Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R § 79.4 in accordance with Section 211(b) of the Act, was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and was not covered by any waiver.

91. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

**EIGHTEENTH CLAIM FOR RELIEF**

(Violation of Substantially Similar Requirements – Charlotte Terminal, 2014)

92. Paragraphs 1-91 are re-alleged and incorporated by reference.

93. On and shortly after August 13, 2014 during an incident at its Charlotte Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R § 79.4 in accordance with

Section 211(b) of the Act, was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and was not covered by any waiver.

94. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

#### **NINETEENTH CLAIM FOR RELIEF**

(Violation of Substantially Similar Requirements – Tampa Terminal, 2014)

95. Paragraphs 1-94 are re-alleged and incorporated by reference.

96. On and shortly after December 4, 2014 during an incident at its Tampa, Florida Terminal, Defendants violated Sections 211(a) and (f) of the Act, 42 U.S.C. §§ 7545(a) and (f), by, selling, introducing into commerce, and/or increasing the use in commerce of fuel containing in excess of 10% ethanol. This fuel was not registered with the EPA under 40 C.F.R § 79.4 in accordance with Section 211(b) of the Act, was not substantially similar to any fuel or fuel additive utilized in certification of vehicles, and was not covered by any waiver.

97. Pursuant to Section 211(d) of the Act, 42 U.S.C. § 7545(d), and 40 C.F.R. § 19.4, the violations set forth above subject Defendants to injunctive relief and civil penalties of up to \$37,500 per day, plus the amount of any economic benefit or savings resulting from the violations for violations that occurred after January 12, 2009.

#### **PRAYER FOR RELIEF**

WHEREFORE, the United States respectfully requests that this Court enter judgment against Defendants:


- A. Impose pursuant to Sections 211(d) of the Act, 42 U.S.C. § 7545(d), a civil penalty against Defendants for each violation of Section 211 of the Act, 42 U.S.C. § 7545, and the fuels regulations, alleged herein, of up to \$32,500 per day, plus the amount of economic benefit or savings resulting from each violation, for violations that occurred between March 15, 2004 and January 12, 2009 and \$37,500 per day, plus the amount of economic benefit or savings resulting from each violation, for violations that occurred after January 12, 2009;
- B. Enjoining Defendants from committing any further violations of the Act and regulations promulgated thereunder, pursuant to Section 211(d)(2) of the Act, 42 U.S.C. § 7545(d)(2);
- C. Requiring Defendants to take appropriate action to mitigate any excess emissions from the violations alleged above;
- D. Awarding the United States its costs of this action; and
- E. Granting the United States such other relief as the Court deems just and proper.

Dated May 20, 2015

Respectfully Submitted,

John C. Cruden  
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Environment and Natural Resources Division  
United States Department of Justice

By:

  
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